

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Jeff Tierney,
Appellant,

v.

Mason City Board of Review,
Appellee.

ORDER

Docket No. 14-106-0375
Parcel No. 07-10-161-004-00

On December 23, 2014, the above-captioned appeal came on for written consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2014) and Iowa Administrative Code rules 701-71.21(1) et al. Jeff Tierney requested his appeal proceed without a hearing and was self-represented. Attorney Tom Meyer of Meyer Law Firm, Mason City, represented the Board of Review. Tierney had also filed two other appeals with this Board, Docket Nos. 14-106-0376 and 14-106-0377; however, those appeals were dismissed in an order issued December 16, 2014. The Appeal Board now, having examined the entire record and being fully advised, finds:

Findings of Fact

Jeff Tierney is the owner of a commercial, retail store located at 319 S. Delaware Avenue, Mason City, Iowa. According to the property record card, the subject property has 9328 square feet of gross building area with a full basement and a 4928 square-foot warehouse addition. The property is also improved by a 492-square-foot lean-to, an overhead door, loading dock, and freight elevator. The property is in normal condition and has below average quality construction grade (5). The improvements were built in 1917 and sit on a 0.23-acre site.

The property's January 1, 2014, assessment was \$160,220, representing \$25,080 in land value and \$135,140 in improvement value. This was a change in value from the previous assessment making

all grounds available for protest under Iowa Code section 441.37(1)(a)(1)(a-e). Tierney protested to the Mason City Board of Review on the ground that there was an error in the assessment under section 441.37(1)(a)(1)(d). His statement of error was that, “the purchase price was only \$120,000,” which included the purchase of additional properties. Essentially, this claim is akin to a claim that the property was assessed for more than authorized by law under section 441.37(1)(a)(1)(b). The Board of Review denied the protest.

Tierney then appealed to this Board reasserting his claim.

Tierney purchased the subject property, along with three other properties, for \$110,000 from an exempt non-profit organization in April 2013. Since the assessment exceeds his purchase price, he believes the assessment should be \$100,000, representing \$10,000 in land value and \$90,000 in improvement value. He reports the property was vacant and in bad shape when he purchased it. It had no heat and was vandalized. Since the purchase, he has remodeled five apartments in this building and rented them. According to Tierney, 65% of the building is still vacant and will not be converted into apartments until next year.

Mason City Assessor Dana Naumann wrote a letter to this Board explaining the Board of Review’s position. Since Tierney purchased multiple properties in one transaction from an exempt organization, the purchase price was given no consideration in the assessment. Naumann explained a listing error was discovered when the tax exemption was removed as of January 1, 2014. The apartment units were erroneously listed twice. This error was corrected and resulted in a \$53,160 decrease in the value of the properties. The \$213,380 value in 2013 was reduced to \$160,220 in 2014.

Tierney did not provide any evidence to show the market value of the property, such as an appraisal or comprehensive market analysis, to support his claim.

Conclusion of Law

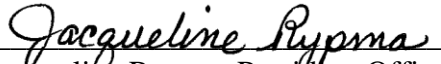
The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

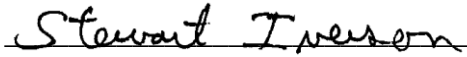
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.*

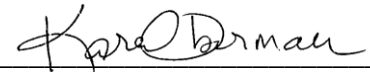
Although Tierney's protest to the Board of Review alleged an error in the assessment, the essence of his claim was that the property was assessed for more than the value authorized by law. In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Tierney did not provide evidence to show the fair market value of the property such as an appraisal or comprehensive market analysis. Moreover, even if Tierney were only alleging an error in the assessment, he failed to show a specific error and the correct assessed value of the property.

THE APPEAL BOARD ORDERS the assessment of Tierney's property located at 319 S Delaware Avenue, Mason City, Iowa, is affirmed with a total value of \$160,220 as of January 1, 2014.

Dated this 4th day of March, 2015.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

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